IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24065 of 2004

Between:

Nalgonda Dist Coop.Central Bank Ltd., rep by its General Manager Mr.K.Rama Krishna
Nalognda Dist.

..... PETITIONER

AND

1 Mr.Rapolu Rangaiah S/o.Somaiah
Cheripally Village, Nalgonda Dist.
2 The Asst.Commissioner of Labour Nalgonda.
Nalgonda Dist.
3 The Dy.Commissioner or Labour Ranga Reddy Zone,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the impugned order passed by the Respondent No.2 in Gr.Case No.1/2001, dt 28/11/2003 as confirmed by the Respondent No.3 in P.G.Case No.2/2004, dt 16-9-2004 as illegal, arbitrary, unjust and contrary to law and against principles of natural justice and set aside the same and further suspend the proceedings passed by the Respondent No.2 in Gr.Case No.1/2001, dt 28/11/2003 as confirmed by the Respondent No.3 in P.G.Case No.2/2004 dt 16/9/2004 and pass such other order or orders.

Counsel for the Petitioner:MR.AMARNATH GOUD THODUPUNURI

Counsel for the Respondent No.1: Mr. D.V. Bhadram

Counsel for the Respondent Nos.2 and 3: GP FOR LABOUR

The Court at the admission stage made the following O R D E R:

The petitioner seeks a Writ of Mandamus to declare the order passed by the second respondent in Gr.Case No.1 of 2001, dated 28.11.2003 as confirmed by the third respondent in P.G.Case No.02 of 2004 dated 16.09.2004 as illegal and arbitrary.

The brief facts that are necessary for the disposal of the case may be stated as follows:

The first respondent while working as Branch Manager at Munugode, has withheld the claims under ARDRS 1990 in respect of 183 borrowers covering an amount of Rs.6,12,852/-. The bank has appointed an enquiry officer. After conducting enquiry, the enquiry officer fixed the liability of Rs.6,12,852/- on the first respondent. The first respondent has filed Gratuity Case No.1 of 2001 before the second respondent under Payment of Gratuity Act, 1972, whereunder the second respondent through order dated 28.11.2003 directed the petitioner herein to pay the gratuity of Rs.2,75,050.00 to the first respondent within thirty days from the date of order at 15% p.a. with effect from 03.04.2001. Aggrieved by the same, the petitioner preferred an appeal before the third respondent, who by order dated 16.09.2004, dismissed the appeal confirming the order passed by the second respondent. Hence this writ petition.

First respondent filed a detailed counter affidavit stating that no enquiry report was furnished to him fixing the liability of Rs.6.13 lakhs. It is further stated that as per the evidence available on record, the authorities passed the order directing the petitioner herein to pay the gratuity amount and, prays to dismiss the writ petition.

Learned counsel for the petitioner contended that in the departmental enquiry, the charges levelled against the petitioner are proved and hence, Rs.6.13 lakhs was fixed on the first respondent for the loss caused by him to the bank and, therefore, the petitioner can withhold the gratuity amount.

On the other hand, learned standing counsel appearing for the first respondent contended that there is no provision under the Gratuity Act to withhold the

gratuity amount. He further contended that the primary as well as appellate authorities after considering that gratuity cannot be withheld, rightly directed the petitioner to pay the gratuity amount. Therefore, the order under challenge does not suffer from any legal infirmities so as to call for interference of this Court.

Learned counsel appearing for the petitioner submitted that there are no bye-laws to withhold gratuity amount. The primary authority after considering the enquiry report directed the petitioner to pay the gratuity amount. The said order has been confirmed by the appellate authority. The orders passed by the primary as well as the appellate authority are not shown to have been passed contrary to the rules or any of the provisions of the Gratuity Act. It is not the case of the petitioner that the findings are not based on proper appreciation of evidence or denial of opportunity to him. Except stating that the orders under challenge are arbitrary and unjust, it is not stated in what manner the orders passed by the authorities are arbitrary. As the order under challenge does not suffer from legal infirmities so as to call for interference, writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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(K.C.BHANU,J)

Dt:4th April, 2005

Note:Furnish copy by 07.04.2005

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To

1 The Asst.Commissioner of Labour Nalgonda.
Nalgonda Dist.
2 The Dy.Commissioner or Labour Ranga Reddy Zone,
Hyderabad.

3 Two C.Cs. to the Government Pleader for Labour, High Court

Buildings, Hyderabad.

4 Two CD copies.